

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination that Appellant was not eligible for subsidies because he did not intend to file taxes as a married couple filing jointly

**Hearing Date:** February 10, 2021

**Decision Date:** February 23, 2021

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

Appellant was notified by the Health Connector on November 30, 2020 that he was not eligible for subsidies to reduce the cost of health insurance because he stated in his application that he was married but did not intend to file taxes as married filing jointly.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies, based on his statement about his tax filing status.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 10, 2021.

The hearing record consists of the Appellant's testimony and the following documents, which were admitted into evidence:

Exhibit 1: Appeals Request Form (dated 12/29/20) (w/ statement)

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- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice (11/30/20) (4 pages)
- Exhibit 4: Screen Shot of Eligibility Determination (11/30/20) (3 pages)
- Exhibit 5: Screen Shot of Application Summary (11/30/20) (4 pages)
- Exhibit 6: Screen Shot of Medicaid Household Eligibility (6 pages)
- Exhibit 7: Request for Information (1/11/21) (4 pages)
- Exhibit 8: Notes from Appeals Database (1 page)
- Exhibit 9: Hearing Notice (1/20/21) (3 pages)
- Exhibit 10: Acknowledgement of Appeal (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is appealing a notice sent by the Health Connector on November 30, 2020 stating that he was not eligible to receive subsidies to offset the cost of insurance. Exhibit 1, 3.
2. For some time prior to November 2020, Appellant had been receiving federal and state subsidies to purchase his insurance. During that time, he was single.
3. In September 2020, Appellant got married.
4. Appellant reported this change in status to the Health Connector. As part of the required update of information, Appellant was asked if he intended to file taxes as married filing jointly.
5. Appellant stated that he intended to file as married filing separately. He did this because he wished to keep his finances separate from his wife's.
6. As a result of this answer, Appellant was determined ineligible for subsidies. The Health Connector notified him of that fact on November 30, 2020.
7. Appellant filed a timely appeal of that determination. Exhibit 1.

## **CONCLUSIONS OF LAW**

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to receive financial assistance from the government to help pay for health insurance.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is determined under federal law. One of the provisions of that law is that, in order to be eligible to receive APTCs, an individual who is married at the end of a calendar year must file taxes jointly with their spouse. 26 U.S.C. § 36B(c)(1)(C).

In addition to the APTCs, which are federal subsidies, the Health Connector determines eligibility for state subsidies. These subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must meet certain eligibility criteria, one of which is that the person qualifies for APTCs. 956 CMR § 12.04.

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In this case, Appellant reported to the Health Connector that he had married in September 2020, but that he did not intend to file taxes jointly with his spouse for the 2020 tax year. Under the governing federal law, this disqualified him from receiving APTCs. Further, because he was not eligible for APTCs, he was also not eligible for Connector Care.

The purpose of the rule requiring married couples to file taxes jointly in order to qualify for APTCs is to ensure that eligibility is accurately determined based on household income. Although Appellant's own earnings did not increase after his marriage, his household income was increased by the addition of his wife's income.

Here, the Health Connector correctly applied the requirements of the governing federal law, which is that a married individual is not eligible for APTCs unless that individual files taxes jointly with their spouse. Accordingly, I must deny the appeal.

### **ORDER**

The appeal is denied.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

Cc: Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Income amount used to determine eligibility for subsidized Health Connector plans

**Hearing Date:** February 10, 2021

**Decision Date:** February 23, 2021

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

Appellant was notified by the Health Connector on December 17, 2020 that she was not eligible for subsidies to reduce the cost of health insurance because her income was too high.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies, based on income.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 10, 2021.

The hearing record consists of the Appellant's testimony and the following documents, which were admitted into evidence:

- Exhibit 1 : Appeals Request Form (dated 12/30/20) (4 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)

- Exhibit 3: Eligibility Notice (12/17/20) (9 pages)
- Exhibit 4: Screen Shot of Eligibility Determination (12/17/20) (2 pages)
- Exhibit 5: Screen Shot of Application Summary (12/17/20) (3 pages)
- Exhibit 6: Guardian benefit statement sent by Appellant (3 pages)
- Exhibit 7: Notes from Appeals Database (1 page)
- Exhibit 8: Request for Information (12/15/20) (4 pages)
- Exhibit 9: Screen shot of Eligibility Determination (1/5/21) (2 pages)
- Exhibit 10: Screen shot of Application Summary (1/5/21) (1 page)
- Exhibit 11: Screen shot of Eligibility Determination (1/21/21) (2 pages)
- Exhibit 12: Screen shot of Application Summary (1/21/21) (1 page)
- Exhibit 13: Hearing Notice (1/19/21) (3 pages)
- Exhibit 14: Acknowledgement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is appealing a notice sent by the Health Connector on December 17, 2020 stating that she was not eligible to receive subsidies to offset the cost of insurance. Exhibit 1, 3.
2. The Health Connector determined that Appellant's household income was 493.73% of the federal poverty level (FPL.) Exhibit 4. The cutoff for eligibility for health insurance subsidies is 400% of FPL. Thus, the Health Connector determined that Appellant's household income was too high to qualify for subsidies. Exhibit 3.
3. Appellant is unmarried and has no dependents.
4. Appellant applied for insurance through the Health Connector in December using the Health Connector's online application and eligibility determination system.
5. At the time she applied, she was employed but about to lose her job.
6. After losing her job, Appellant began receiving long term disability insurance payments.
7. She reported that the amount of those payments was \$5,250 monthly or \$63,000 annually. Appellant sent in to the Health Connector a statement from the disability insurer documenting those amounts. Exhibit 6.
8. Appellant confirmed at the hearing that she was still receiving payments in that amount.
9. Appellant called the Health Connector in early January 2021 to inquire about her eligibility. In that conversation, it was erroneously entered into the eligibility database that Appellant had no income. However, later in January, that error was corrected and the determination that her income was above 400% of FPL was restored.
10. The FPL is a threshold set by the federal government annually to determine eligibility for various government assistance programs. The FPL in 2020 for a household of one person was \$12,760. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 % of the FPL is four times that amount or \$51,040.
11. Based on the determination that Appellant's income was above 400 % of the federal poverty limit for a household of one person, the Health Connector correctly determined that they was not eligible for any financial assistance from the government in paying for health insurance.
12. Appellant was notified of this determination by letter sent on December 17, 2020. Exhibit 3.

13. Appellant filed a timely appeal of that determination. Exhibit 1.

### CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to receive financial assistance from the government to help pay for health insurance.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The cutoff for eligibility for APTCs is 400% of the FPL. Id. Thus, persons whose household income is greater than 400% of FPL are not eligible to receive APTCs. Id. See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f).

In addition to the APTCs, which are federal subsidies, the Health Connector determines eligibility for state subsidies. These subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs and must have yearly projected household income of less than or equal to 300% FPL. 956 CMR § 12.04.

As explained above, eligibility is based on household income as a percentage of FPL. The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2). The FPL for a household of one person is \$12,760. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 % of that amount is \$51,040. Appellant's projected household income of \$63,000 is above that amount.

At the hearing, Appellant acknowledged that the income figures used by the Health Connector to make its determination were accurate and based on information she had provided. Appellant was concerned that in January her income had been erroneously entered as zero. This appears to have been the result of a miscommunication with a customer service representation, and the information was quickly corrected. In any event, this temporary error in January did not have any effect on the eligibility determination made in December, which is the subject of this appeal.

Based on the facts regarding Appellant's household income, the Health Connector correctly determined that she was not eligible for subsidies for health insurance. Accordingly, I must deny the appeal.

### ORDER

The appeal is denied.

### NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this decision. You also have the right to appeal to state court in accordance with Chapter 30A of

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the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## Final Appeal Decision ACA 21-13230

**Appeal Decision:** Appeal Allowed, Eligibility Determination Overturned

**Hearing Issue:** Eligibility for APTC

**Hearing Date:** January 7, 2021

**Decision Date:** February 22, 2021

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### **AUTHORITY**

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Applicants and enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, § 155.500 et seq. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, § 12.15.

### **ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR**

In a letter dated November 16, 2020, the Health Connector notified Appellants of their eligibility for Health Connector plans without financial assistance based on Appellants' income and failure to reconcile advanced premium tax credits ("APTC") in a prior year. The Connector subsequently revised its determination on or about December of 2020, deeming Appellants' eligible for a subsidized Health Connector (Connector Care) plan, and that Appellants remained ineligible for APTC.

### **ISSUE**

The issue addressed on appeal is whether the Health Connector correctly determined Appellants ineligible for APTC in purchasing health insurance through the Health Connector.

### **HEARING RECORD**

Appellant Wife ("Appellant") appeared at the hearing, which was held by telephone on January 7, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Eligibility Approval Notice dated November 16, 2020.
- Exhibit 2: Health Connector Application Summary for Application submitted November 18, 2020.
- Exhibit 3: Health Connector 2021 Eligibility Results for Application submitted November 18, 2020.
- Exhibit 4: Hearing Request Form received by Health Connector December 4, 2020.
- Exhibit 5: Health Connector Keeper of Records Affidavit - M. Lopez.
- Exhibit 6: Health Connector Outreach Notes dated December 12, 2020.



- Exhibit 7: Health Connector 2021 updated Eligibility Results December 12, 2020.
- Exhibit 8: Health Connector Application Summary December 12, 2020.
- Exhibit 9: Health Connector Acknowledgment of Appeal dated December 12, 2020.
- Exhibit 10: Health Connector Hearing Notice dated December 15, 2020.
- Exhibit 11: Health Connector email to Appellant dated January 21, 2021.

**FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellants submitted their 2021 Health Connector Application on November 18, 2020, after which the Connector determined that Appellants were no longer eligible for a subsidized (Connector Care) plan with APTC.
2. The Connector based this eligibility determination on Appellants' Federal Poverty Level ("FPL") of 239%, as derived from Appellants' household income, as well as the Connector's inability to confirm Appellants' reconciliation of APTC from a prior year.
3. By letter dated November 16, 2020, the Health Connector notified Appellants of this recent eligibility determination.
4. Appellants were placed on an unsubsidized Health Connector plan without APTC for the month of December, 2020.
5. Appellants submitted a Hearing Request Form, received by the Connector on December 4, 2020, indicating that they were unable to verify reconciliation of a prior year APTC because the Internal Revenue Service had not yet processed Appellants' 2019 Federal Tax Return, through no fault of theirs.
6. Sometime thereafter, the Connector revised its determination, deeming Appellants eligible for a subsidized Connector Care plan, without APTC; the Connector notified Appellants of same on January 21, 2021.
7. Appellants received APTC in 2019.
8. Appellants timely filed a joint 2019 Federal Tax Return including Form 8962.

**ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined that Appellants could purchase subsidized health insurance (Connector Care) through the Connector for 2021, but that they were ineligible for APTC because of Appellants' failure to verify, and the Connector's inability to confirm, reconciliation of 2019 APTC.

Individuals who are otherwise eligible to purchase Health Connector plans may receive APTC if their household income is at or below 400% of the FPL. Applicants who qualify for APTC, who have projected yearly Modified Adjusted Gross Income (“MAGI”) less than or equal to 300% FPL, qualify for additional state subsidies through the Health Connector’s Connector Care program. 956 C.M.R. § 12.04. One of the requirements for APTC eligibility is that individuals who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount for which the individuals are eligible. 45 C.F.R. § 155.305(f)(4).

In their 2021 Application for subsidized health insurance with the Connector, Appellants did not verify their eligibility for APTC by reconciling their previous APTC, which requires the recipients file their federal income taxes using IRS Form 1040 including IRS Form 8962.

Appellants received APTC credits in 2019, but did not provide evidence of filing the requisite tax forms to reconcile those tax credits at the time the Connector made its eligibility determination.

The Connector has been made aware that the IRS is delayed in processing 2019 tax returns, and that this delay may prevent a Member or Applicant from verifying in their application that they have reconciled all prior APTC. Appellant credibly testified at the hearing that she and her spouse reconciled their 2019 APTC by jointly filing a 2019 Federal Tax Return and including Form 8962.

Appellants’ inability to verify reconciliation of 2019 APTC on their Health Connector application, and the Connector’s resulting inability to confirm reconciliation, results from the IRS’ return processing backlog. Appellant credibly testified to having reconciled 2019 APTC by jointly filing a 2019 Federal Tax Return including Form 8962. Accordingly, I find that the Connector’s 2021 determination that Appellants were ineligible for APTC for failure to reconcile previous APTC to be incorrect.

**ORDER**

The appeal is allowed.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, § 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision ACA 21-13235**

**Appeal Decision:** Appeal Denied, Eligibility Determination Affirmed

**Hearing Issue:** Eligibility for subsidies

**Hearing Date:** January 7, 2021

**Decision Date:** February 23, 2021

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**AUTHORITY**

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

**JURISDICTION**

Applicants and enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, § 155.500 et seq. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, § 12.15.

**ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR**

In a letter dated November 12, 2020, the Health Connector notified Appellant of his eligibility for a Health Connector plan without financial assistance, based on Appellant's income and tax filing status.

**ISSUE**

The issue addressed on appeal is whether the Health Connector correctly determined Appellant ineligible for financial assistance in purchasing health insurance through the Health Connector.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on January 7, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Eligibility Approval Notice dated November 12, 2020.
- Exhibit 2: Health Connector Application Summary for Application submitted November 12, 2020.
- Exhibit 3: Health Connector 2021 Eligibility Results for Application submitted November 12, 2020.
- Exhibit 4: Health Connector 2020 Medicaid Household Determination dated November 19, 2020.
- Exhibit 5: Hearing Request Form received by Health Connector December 4, 2020.
- Exhibit 6: Health Connector Keeper of Records Affidavit - M. Lopez.
- Exhibit 7: Health Connector Outreach Notes dated December 12, 2020.
- Exhibit 8: Health Connector Acknowledgment of Appeal dated December 12, 2020.
- Exhibit 9: Health Connector Hearing Notice dated December 15, 2020.

## **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant submitted a Health Connector Application on November 12, 2020, after which the Connector determined that Appellant was eligible for a Health Connector plan without financial assistance.
2. The Connector based this eligibility determination on Appellant's Federal Poverty Level ("FPL") of 94%, as derived from Appellant's household income, and Appellant's marital and tax filing status.
3. By letter dated November 12, 2020, the Health Connector notified Appellant of this eligibility determination.
4. Appellant submitted a Hearing Request Form, received by the Connector on December 4, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined that Appellant could purchase health insurance through the Connector for 2021, but that he was ineligible for subsidies because of his income, and marital and tax filing status.

The Health Connector is a health insurance exchange created under state law. M.G.L. 176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. See M.G.L. 176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money combined with these federal premium tax credits. To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. See 956 C.M.R. 12.08.

Individuals are eligible for Advanced Premium Tax Credits ("APTC") if their household income is at or below 400% of the Federal Poverty Level ("FPL"). Applicants who qualify for APTC, who have projected yearly Modified Adjusted Gross Income ("MAGI") less than or equal to 300% FPL, qualify for additional state subsidies through the Connector Care program. 956 C.M.R. § 12.04. One of the requirements for APTC eligibility is that a married couple file a joint Federal Tax Return. I.R.C. § 36B(c)(1)(C); 26 C.F.R. § 1.36B2T(b)(2)(i). A married individual who files separately from a spouse is ineligible for APTC, and thus, ineligible for Connector Care.

At the hearing, Appellant offered conflicting testimony regarding his marital status, first testifying that he is not currently married and has not been married for approximately twenty years, then testifying that his "wife" died approximately four years ago. (Appellant Testimony). I do not find Appellant's testimony regarding his marital status credible. Appellant testified that he did not file a Federal Tax Return in either 2019 or 2018, and was unable to confirm the last year he did file a Federal Tax Return. (Appellant Testimony).

As required by law, the Health Connector, in making its eligibility determination, relied on electronic data sources in verifying the data to which Appellant attested in his application for subsidized health insurance. Alternate data sources indicate that Appellant is married with a tax filing status as Head of Household, not filing jointly. (Exhibit 4). The Connector may rely on data sources other than Appellant's attestations in an application for subsidized health insurance. The Connector properly relied on data sources indicating Appellant's status as married, not filing jointly at the time the Connector determined Appellant ineligible for subsidized health insurance.

Accordingly, I find that the Connector correctly found Appellant eligible for Health Connector plans without subsidies, based on electronic data sources available, and the Connector's determination is upheld.

Non-determinative but worth elucidation is ACTP eligibility based on a valid tax filing status, which presumes that an individual seeking subsidized health insurance through the Connector is filing a federal tax return.

Here, Appellant vigorously, and credibly, testified that he has not filed a Federal Tax Return in at least two years, possibly longer. (Appellant Testimony). Individuals applying for subsidized coverage through the Health Connector must meet the same eligibility requirements as individuals applying for unsubsidized coverage, with some additional requirements, in particular: the individual must intend to file taxes with the appropriate filing status. 45 C.F.R. § 155.503(f)(1)(ii). I find it more likely than not that Appellant had no intention of filing a 2020 Federal Tax Return, with or without the proper filing status, at the time the Connector made its eligibility determination.

#### **ORDER**

The appeal is denied.

#### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, § 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

**FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant’s eligibility for subsidized insurance based on access to employer sponsored health insurance

**Hearing Date:** February 16, 2021

**Decision Date:** February 23, 2021

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**AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

**JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On October 19, 2020, the Appellant was determined eligible for Health Connector plans without subsidies as of January 1, 2021. The reason the Appellant was denied subsidies is because the Appellant stated she had access to affordable employer sponsored insurance that met minimum value standards.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant’s access to employer sponsored insurance.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 16, 2021.

The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector’s Hearing Record Affidavit ( 1 page, undated )

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Exhibit 2:	Appellant’s Appeal Request Form with correspondence	( 8 pages, received	11/13/2020)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 page, dated	11/20/ 2020)
Exhibit 4:	Health Connector’s Notice of Hearing	(3 pages, dated	1/28/2021)
Exhibit 5:	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated	11/20/ 2020)
Exhibit 6:	Health Connector’s Eligibility Approval	( 9 pages, dated	10/19/2020)
Exhibit 7:	Health Connector’s Application Summary	( 3 pages, dated	10/19/2020)
Exhibit 8:	Health Connector’s Eligibility Results	( 4 pages, dated	1/28/2021)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies on October 19, 2020 as of January 1, 2021. (Exhibit 1, Exhibit 6).
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because she stated on her application that she has access to employer-sponsored health insurance. (Exhibit 1, Exhibit 3, Exhibit 7, Exhibit 8).
3. The Appellant is enrolled in employer sponsored coverage but testified the dental plan offered does not provide adequate coverage for dental procedures. (Testimony).
4. The Appellant referenced that the amount of the increased dental premium for purchasing a plan with adequate coverage is unaffordable. (Exhibit 2, Testimony).
5. The Appellant testified she has enrolled in dental plan through MassHealth with a monthly premium of \$37.95 which provides adequate coverage. (Appellant testimony)

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on her appeal request form that her employer offers only preventive insurance plan for her dental and she cannot afford the cost of an upgraded dental plan that would provide additional coverage. (Exhibit 2). However, the Appellant testified she has enrolled in dental plan through MassHealth with a monthly premium of \$37.95 which provides adequate coverage. (Appellant testimony).

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2020 if the employee’s required contribution for self-only coverage is 9.86 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

The Appellant testified at hearing that she is enrolled in Employer Sponsored Insurance. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination. Moreover, the Appellant testified she was enrolled in an affordable dental plan through MassHealth with adequate coverage. The Appellant's appeal is therefore denied.

### **ORDER**

The appeal is denied.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

Cc: Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13101

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; Medicare

**Hearing Date:** December 29, 2020

**Decision Date:** February 10, 2021

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On October 26, 2020, the Appellant was deemed ineligible for Health Connector Plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Health Connector plans, based on Appellant's access to Medicare.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 29, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-3-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-1-20) (1 page);
- Exhibit 4: Outreach note (1 page);
- Exhibit 5: Hearing Request form (11-13-20) (with letter) (4 pages);
- Exhibit 6: Eligibility Denial letter (10-26-20) (6 pages);

Exhibit 7: Eligibility detail printout and application summary printout (5 pages); and  
Exhibit 8: Medicare/SHINE letter (12-1-20).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on or about October 26, 2020. (Exhibits 6, 7).
2. Appellant was determined ineligible for Health Connector plans on October 26, 2020, based on being eligible for Medicare. (Exhibits 6, 7).
3. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare.
4. Appellant indicated that the Social Security office had told them that they could retain other health insurance and only take Medicare Part A. (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant stated during the hearing on the appeal that Appellant was told that they could retain other health insurance and only take Medicare Part A.

Under 42 USC § 1395(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare. This applies to subsidized health insurance as well.

When the Appellant's eligibility for 2021 coverage was determined on October 26, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at the hearing eligibility for Medicare. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for ConnectorCare or Health Connector plans. This was the correct determination and the Appellant's appeal is denied.

## **ORDER**

The Connector determination was correct. The appeal is therefore denied.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

*Note:* Appellant was advised to contact SHINE and was given the telephone number. In addition, Appellant was advised that any issues about Health Safety Net should be addressed to Mass Health.

*NOTE:* The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13120

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Whether the Connector correctly determined the Appellant's eligibility for ConnectorCare and the Advance Premium Tax Credit based on the projected modified adjusted gross income for 2021

**Hearing Date:** December 29, 2020

**Decision Date:** February 19, 2021

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 15, 2020, the Health Connector found that the Appellant was not eligible for ConnectorCare and the Advance Premium Tax Credit through the Health Connector, because the Appellant's projected modified adjusted gross income for 2021 was less than 100% of the federal poverty level.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the eligibility of the Appellant for ConnectorCare and the Advance Premium Tax Credit based on the Appellant's projected modified adjusted gross income for 2021.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 29, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-3-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-2-20) (1 page);

- Exhibit 4: Outreach note (1 page);  
Exhibit 5: Hearing Request form (11-10-20) (4 pages);  
Exhibit 6: Eligibility Approval letter (10-15-20) (9 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (5 pages);  
Exhibit 8: Application for Seniors for MassHealth (38 pages);  
Exhibit 9: Medicaid Determination (6 pages); and  
Exhibit 10: MMIS form (1 page).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is 65 years old and is not eligible for Social Security or Medicare. (Appellant Testimony, Exhibits 7, 9).
2. Appellant applied for subsidized health insurance through the Health Connector on October 15, 2020. (Exhibits 6, 7).
3. Based on the Appellant's application for subsidized health insurance, the Health Connector found that the Appellant was eligible for Health Connector plans without subsidies, because the Appellant's projected income for 2021 was less than 100% of the federal poverty level. (Exhibits 6, 7).
4. The Appellant filed a Hearing Request form dated November 10, 2020, appealing the Health Connector's decision (Exhibit 5).
5. The Appellant's projected yearly income on the application for subsidized health insurance was \$0.00, which is 0% of the federal poverty level. (Exhibit 7).
6. On the application, the Appellant stated that their income was \$0.00 monthly. (Exhibit 7).
7. The Appellant intends to file taxes for 2020. (Exhibit 7).
8. The Appellant had previously been enrolled in MassHealth. (Exhibit 10).

## **ANALYSIS AND CONCLUSIONS OF LAW**

In the Appellant's application to the Health Connector, the Appellant stated their income was \$0.00 monthly, and that the projected income for 2021 was \$0.00. Based on the projected income, the Appellant would have income that was 0% of the federal poverty level.

Although Appellant is 65 years old, the Appellant is not eligible for Medicare or Social Security.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level, and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). The Appellant's expected income is 0% of the federal poverty level. Therefore, the Appellant is not eligible for the APTC.

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the federal poverty level. In addition, the individual must be eligible for the federal Advance Premium

Tax Credit pursuant to 45 CFR 155.305 (f). Since the Appellant is not eligible for the federal APTC, they are also not eligible to enroll in ConnectorCare.

**ORDER**

The Connector determination was correct. The appeal is therefore denied.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

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**ADDENDUM**

If you are found eligible for a Health Connector plan with Advance Premium Tax Credits, or a ConnectorCare plan (which also includes Advance Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

Note: Appellant was advised to complete the MassHealth application for Seniors.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13154

**Appeal Decision:** Appeal Denied.

**Hearing Issues:** Eligibility for ConnectorCare based on failure to verify income.  
Eligibility for ConnectorCare based on Tax Filing Status.

**Hearing Date:** February 8, 2021

**Decision Date:** February 12, 2021

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTIONS TAKEN BY THE HEALTH CONNECTOR

On November 17, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant failed to verify their income. The Appellant also reported that they are married, living with their Spouse and plan to file taxes separately.

### ISSUES

The first issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's failure to verify their income in a timely manner.

The second issue addressed is whether the Health Connector correctly determined that the Appellant is not eligible for subsidies because the Appellant and their Spouse do not file a joint tax return.

### HEARING RECORD

The Appellant and their adult child appeared at the hearing, which was held by telephone, on February 8, 2021. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 19, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.

- Exhibit 4: Health Connector Eligibility Approval Notice dated November 17, 2020.  
Exhibit 5: 2021 Eligibility Results with an Application Summary dated November 17, 2020.  
Exhibit 6: The Appellants' Online Appeal Request dated November 24, 2020.  
Exhibit 7: 2021 Eligibility Results with an Application Summary dated December 15, 2020.  
Exhibit 8: Health Connector Appeals Unit Outreach letter to the Appellant dated December 22, 2020.  
Exhibit 9: 2021 Eligibility Results with an Application Summary dated February 2, 2021.  
Exhibit 10: A Medicaid Eligibility Printout.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On November 17, 2020, the Appellant applied for ConnectorCare and reported income equal to 113.74% of the federal poverty level for their household of five. The Appellant lives with their Spouse, one adult child and two children under age eighteen. The Appellant Spouse was not applying for health insurance. The Appellant and their adult child were determined eligible for Health Connector Plans with no financial assistance because the Appellant failed to verify their income in a timely manner. The Appellant's two younger children were determined eligible for MassHealth (Exhibits 4, 5).
2. The Appellant filed an Appeal on November 24, 2020. The Appellant noted that they live with their Spouse, but they file their taxes separately. The Appellant noted that that need help paying for health insurance (Exhibit 6).
3. Health Connector Appeals Unit researched the Appellant's case and determined that the Appellant's eligibility for MassHealth is pending verification of the Appellant's income (Exhibits 3, 5).
4. On December 22, 2020 Health Connector Appeals Unit sent the Appellant a letter requesting proof of income. The types of acceptable verification of income as well as contact information were noted on the letter (Exhibit 8).
5. The Appellant reported changes in household income on December 15, 2020 and February 2, 2021 but as of the date of the Hearing, February 8, 2021 the Appellant has not submitted proof of income (Exhibits 7, 9 and Appellant Testimony).
6. The Appellant testified that they telephoned Customer Service and were told that they and their Spouse must file a joint tax return to be eligible for healthcare subsidies but due to family issues this is not possible. The Appellant said that their Spouse does not wish to give their information (Appellant Testimony).
7. The Appellant was advised to submit proof of income as soon as possible. The Appellant was given contact information for MassHealth Customer Service and the Health Insurance Processing Center address to submit proof of income.



## **ANALYSIS AND CONCLUSIONS OF LAW**

On November 17, 2020, the Appellant applied for health insurance through the Health Connector. The Appellant lives with their Spouse, one adult child and two children under the age of eighteen. The Appellant reported income equal to 113.74% of the federal poverty level. The Appellant's younger children were determined eligible for MassHealth. The Appellant's Spouse was not applying for coverage. The Appellant and their adult child were determined eligible for Health Connector Plans with no financial assistance. The determination was a result of the Appellant's failure to verify their income as well as the Appellant's pending MassHealth eligibility status. The Appellant filed an appeal on November 24, 2020 to dispute this determination.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). The Appellant does not dispute that they live with their Spouse and plan to file taxes separately. The Appellant is therefore not eligible for ConnectorCare for this reason.

To be eligible for ConnectorCare, individuals must not have access minimum essential coverage through other government subsidized programs such as MassHealth. 45 CFR § 155.305(f)(1)(ii). The Appellant's eligibility for MassHealth is pending verification of the Appellant's income. The Appellant does not dispute that as of February 8, 2021 the Appellant has failed to submit proof of income.

The Health Connector's November 17, 2020 determination that the Appellant is eligible for Health Connector Plans without subsidies was correct based on the Appellant's unknown income and access to MassHealth. 956 CMR § 12.04, 45 CFR § 155.305(f) and 45 CFR § 155.315(f).

### **ORDER**

This Appeal is Denied.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant may contact MassHealth Connector Customer Service at 1-800-841-2900 for assistance.

The Appellant should mail verification of their income to MassHealth at:

Health Insurance Processing Center  
PO Box 4405  
Taunton, MA 02780

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13386

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized insurance based on access to Veterans Administration health program.

**Hearing Date:** February 5, 2021

**Decision Date:** February 22, 2021

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 25, 2020, Appellant was determined ineligible for ConnectorCare Plans. The reason the Appellant was denied subsidies is because the Appellant has access to Veterans Administration health plans or is or is enrolled in Veterans Administration health plans.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for ConnectorCare Plans based on the Appellant's access to Veterans Administration health plans.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 5, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated January 11, 2021)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (3 Pages)
- Exhibit 4: Appeal Unit Staff Case Notes (1 Page)
- Exhibit 5: Appellant's appeal request form (2 pages dated December 12, 2020)
- Exhibit 6: Notice of Eligibility Determination ( 9 pages, Dated November 25, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated November 25, 2020)
- Exhibit 7: Historical Notices & Printouts (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for ConnectorCare Plans on November 25, 2020, based on being eligible for Veterans Administration health plans. (Exhibit 6, 7 &, Appellant's testimony)
2. Appellant is enrolled in Veterans Administration health plans. (Exhibit 6, 7, & Appellant's testimony)
3. Appellant testified that he currently has Veterans Administration health plans. Appellant testified that he has the Veterans Administration health plan but he needs more assistance in paying his bills because of his medical ailments which include strokes.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant testified that he has multiple ailments and needs help in paying for treatment.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Veterans Administration health plans. 42 USC s. 1395ss(d)(3)(A)(i); 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

When the Appellant's eligibility for 2021 coverage was determined on November 25, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Veterans Administration health plans. The Appellant confirmed at hearing that he was eligible for Veterans Administration health plans. Because the Appellant was eligible for Veterans Administration health plans, the Health Connector found that the Appellant was not eligible to receive ConnectorCare Plans. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13494

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized insurance based on access to Medicare.

**Hearing Date:** February 9, 2021

**Decision Date:** February 24, 2021

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 15, 2020, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans based on the Appellant's access to Medicare.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 9, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and his representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector's Hearing Affidavit (1 page)

- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated January 19, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeal Unit Staff Case Notes (1 Page)
- Exhibit 5: Appellant's appeal request form (1 page undated)
- Exhibit 6: Notice of Eligibility Determination Dated December 15, 2020 (6 Pages)
- Exhibit 76: Health Connector's Determination Results and Review Computer Printout (6 pages, dated December 15, 2020)
- Exhibit 7: Historical Notices & Printouts

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on December 15, 2020, based on being eligible for Medicare. (Exhibit 6 7 &, Appellant's testimony)
2. Appellant is enrolled in Medicare, Part A and now Part B which does not go into effect until July 1, 2021. (Exhibit 6, 7, & Appellant's testimony)
3. Appellant testified that she currently has Medicare Part A and has signed up for Medicare Part B but it does not go into effect until July 1, 2021. Appellant testified that she had the health Connector last year and when she signed up for Medicare the representative told her that she didn't need to sign up for Part B because she had coverage and it would be an extra cost.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant testified that she has multiple ailments and needs help in paying for treatment.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Medicare. 42 USC s. 1395ss(d)(3)(A)(i); 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

When the Appellant's eligibility for 2021 coverage was determined on October 10, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that she was eligible for Medicare. Because the Appellant was

eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

Appellant is requested to contact the Social Security Administration at telephone number 1-800-772-1213 and request 'equitable relief' for her failure to sign up for Medicare Part B. Appellant should request that she should be allowed to sign up for Part B right away and Appellant should request a penalty reduction for any failure to sign up for Medicare Part B. right away. Appellant should request help in paying for Medicare costs.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-12806

**Appeal Decision:** Appeal Allowed

**Hearing Issue:** Eligibility for Health Connector plans; residency

**Hearing Date:** December 23, 2020

**Decision Date:** February 3, 2021

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On October 22, 2020, the Appellant was determined ineligible for Health Connector plans due to failure to be a resident of Massachusetts.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant's eligibility for Health Connector plans, based on the Appellant's failure to show that Appellant was a resident of Massachusetts.

### **HEARING RECORD**

Appellant's representative appeared at the hearing, which was held by telephone, on December 23, 2020. The hearing was recorded. The record was left open to allow the Health Connector to submit evidence that Appellant was now covered under MassHealth. The hearing record consists of the Appellant's representative's testimony, and the following documents which were admitted into evidence without objection by Appellant's representative:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (11-30-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (11-10-20) (1 page);
- Exhibit 4: Outreach notes (1 pages);

- Exhibit 5: Hearing Request form (11-4-20) (with documents) (8 pages);  
Exhibit 6: Eligibility denial letter (10-22-20) (6 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (4 pages); and  
Exhibit 8: Documents submitted by Health Connector pursuant to open record regarding MassHealth coverage for Appellant.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance in October, 2020, and was asked to submit proof of residency. (Exhibit 6).
2. Appellant is a client of a Massachusetts agency, and has been placed with a foster family in Rhode Island for several years. In the past, Appellant was able to obtain health insurance through Massachusetts as a result of the regulations allowing clients of the Massachusetts agency to obtain it. (Appellant's Representative's testimony, Exhibit 5).
3. After the hearing, the Health Connector confirmed that Appellant had been provided Mass Health.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed ineligible for Health Connector plans based on failure to verify residency. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). where the Health Connector cannot verify applicants' residency electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On October 22, 2020, the Appellant was deemed not eligible for Health Connector due to failure to submit proof of residence. Appellant submitted documents with the hearing request, including a regulation that provides that if a Massachusetts state agency places a client in another state, the client is considered a resident of Massachusetts. 42 CFR § 435.403. This regulation provides: "Any agency of the State, including an entity recognized under State law as being under contract with the State for such purposes, that arranges for an individual to be placed in an institution located in another State, is recognized as acting on behalf of the State in making a placement. The State arranging or actually making the placement is considered as the individual's State of residence."

The placement in this case is an "institution" ("For purposes of this section - Institution has the same meaning as Institution and Medical institution, as defined in § 435.1010. For purposes of State placement, the term also includes foster care homes, licensed as set forth in 45 CFR 1355.20, and providing food, shelter and supportive services to one or more persons unrelated to the proprietor. 42 CFR § 435.403(b)). Therefore, the Appellant is considered a resident of Massachusetts.

The Health Connector incorrectly found that the Appellant was not eligible for Health Connector plans on October 22, 2020, and that determination is overturned.

## **ORDER**

The Connector determination was incorrect. The appeal is therefore allowed.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

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## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural.  
NOTE: Appellant was given information to contact the Ombudsperson at the Health Connector.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2112689

**Appeal Decision:** Appeal denied. The determination of the Connector is affirmed.

**Hearing Issue:**

Whether the Connector correctly determined the appellants' eligibility to enroll in a Health Connector-Care plan, Type 2A with an advance premium tax credit.

**Hearing Date:** December 30, 2020

**Decision Date:** February 15, 2021

**AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

**JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On October 11, 2020, the Connector determined that the appellants were eligible to enroll in a Health ConnectorCare plan Type 2A with an advance premium tax credit for 2021 based upon information supplied by the appellant to the Connector.

**ISSUE**

Whether the Connector correctly determined that the appellants were eligible to enroll in a Health ConnectorCare plan Type 2A with an advance premium tax credit. for 2021

**HEARING RECORD**

One of the appellants appeared at the hearing which was held by telephone on December 30, 2020. An interpreter was also present. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

The hearing record consists of the testimony of Appellant and the following documents which were admitted in evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 8, 2020 for December 30, 2020 hearing addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated November 4, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes

- Exhibit 3b: Email to Appellant from Connector Appeals Unit dated November 4, 2020  
Exhibit 3c: Appellant's response to Appeals Unit acknowledgment letter dated November 10, 2020  
Exhibit 4: Hearing Request Form from Appellant received by the Connector on October 26, 2020  
Exhibit 5: Connector letter dated October 11, 2020 to Appellant regarding eligibility for ConnectorCare Type 2A plan  
Exhibit 6: Summary and results of Appellants' application for Connector health plan dated September 8, 2020 for 2021 coverage  
Exhibit 7: Summary and results of Appellants' application for Connector health plan dated October 22, 2020 for 2020 coverage

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants had ConnectorCare coverage in 2020 until one of the appellants lost coverage in October, 2020. It is unknown why the appellant lost the coverage (Exhibits 3a, 5).
2. According to Connector records, on September 8, 2020, both Appellants were found to be eligible for ConnectorCare coverage Type 2A in 2021, the same type of coverage that the appellants had in 2020 (Exhibits 5 and 6).
3. The appellants had attested that they had a projected income for 2021 of \$19,584 which equaled 113.6% of the Federal Poverty Level. This is the same income that the appellants had claimed to have for 2020. One appellant was employed; the other was not (Testimony of Appellant, Exhibits 5, 6, 7).
4. Based upon the projected income, Appellants were eligible for ConnectorCare Type 2A (Exhibits 5, 6).
5. Appellant submitted a request for an appeal of the Connector's determination on October 26, 2020. Appellant appealed the October 11, 2020 Connector determination because of income (Exhibit 4, Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on October 11, 2020 that the appellants were eligible to enroll in a ConnectorCare plan Type 2A in 2021. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has

a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellants were determined to be eligible for health insurance through the Connector, after attesting that their projected income for 2021 would be \$19,584. Based upon this projected income which equaled 113.6% of the Federal Poverty Level, the Connector determined that the appellants were eligible for a ConnectorCare Plan, Type 2A. See Exhibits 5 and 6.

Based upon the self-attestation by the appellants, the Connector correctly determined the appellant's eligibility for a ConnectorCare plan Type 2A. As noted above, if individuals are otherwise eligible to purchase health insurance through the Connector and if the individuals have an income which is between 100% and 400% of the Federal Poverty level, the individuals are eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. If the projected income is between 100% and 300% of the Federal Poverty Level, the individuals may be eligible for a ConnectorCare plan if they meet other eligibility requirements. The plan type is dependent upon the individuals' projected income level. See 956 CMR 12.00 et. seq.

The determination of the Connector is, therefore, affirmed.

**ORDER:** The action taken by the Connector regarding Appellants' eligibility to enroll in a Connector-Care plan Type 2A is affirmed.

#### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Hearing Officer

Addendum: As of the date of this hearing, Appellants had not enrolled in a plan for 2021. The appellant who was present at the hearing was advised during the hearing of the need for him and his spouse to enroll either on-line or by calling Customer Service. He was also advised to notify the Connector if his income increased or decreased during the year.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2112776

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income

**Hearing Date:** December 23, 2020

**Decision Date:** February 10, 2021

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 13, 2020, the Appellant was determined eligible for Health Connector plans with no financial help.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no financial help, based on the Appellant's reported and verified income.

### HEARING RECORD

Appellant and Appellant's representative appeared at the hearing, which was held by telephone, on December 23, 2020. The hearing was recorded. The hearing record consists of the Appellant's representative's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (11-30-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (11-9-20) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (10-24-20) (4 pages);
- Exhibit 6: Eligibility Approval letter (10-13-20) (9 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (4 pages);

Exhibit 8: Medicaid determination information (5 pages); and  
Exhibit 9: MMIS form (1 page).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance previously through the Appellant's parent. (Testimony, Exhibit 9).
2. When Appellant turned 21, Appellant needed to obtain their own health insurance. (Testimony, Exhibit 9).
3. Mass Health administratively closed Appellant's eligibility for failure to provide information regarding income (Exhibits 4, 8).
4. Based on the fact that the Appellant did not submit proof of income, Appellant was determined eligible for Health Connector Plans with no financial help. (Exhibits 6, 7).
5. Appellant appealed. (Exhibits 5, 7, Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for Health Connector plans with no financial assistance based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

In July 2019, Mass Health administratively closed Appellant's eligibility due to failure to provide information and documents regarding their income. On October 13, 2020, the Appellant was determined eligible for Health Connector Plans with no financial help based on other information as Appellant had not provided proof of income. The Appellant appealed. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for Health Connector plans with no financial assistance on October 13, 2020, and that determination is upheld.

## **ORDER**

The Connector determination was correct. The appeal is therefore denied.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30)



days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2112969

**Appeal Decision:** Appeal denied. The determination of the Connector is affirmed.

**Hearing Issue:**

Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector without an advance premium tax credit.

**Hearing Date:** December 30, 2020

**Decision Date:** February 17, 2021

### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 15, 2020, the Connector determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit based upon information supplied by the appellant to the Connector.

### ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 30, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

The hearing record consists of the testimony of Appellant and the following documents which were admitted in evidence:

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 8, 2020 addressed to Appellant for December 30, 2020 hearing

Exhibit 3: Connector Appeals Unit letter dated November 18, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit staff outreach notes and email to Appellant from Appeals Unit dated November 18, 2020

Exhibit 4: Hearing Request Form from Appellant received by the Connector on November 13, 2020 with

October, 2020 paystubs attached

Exhibit 5: Connector letter dated October 15, 2020 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance

Exhibit 6: Summary and results of Appellant's application for Connector health plan for 2021 dated October 14, 2020

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in October, 2020 for 2021. In the past, Appellant had had MassHealth coverage which he lost because he did not send in requested information. Appellant had no health insurance in 2020 (Testimony of Appellant, Exhibits 3a, 6).
2. When the appellant applied to the Connector, the appellant attested to an income of \$843 a month, or a projected annual income of \$12,282 which equals 71% of the Federal Poverty Level. Appellant also attested that he intended to file tax returns for 2020 and that he had no access to other health insurance (Testimony of Appellant, Exhibit 6).
3. The Connector notified Appellant in a letter dated October 15, 2020 that based upon the information Appellant had provided on his application, the Appellant was eligible for a Connector Health plan coverage without an advance premium tax credit. Appellant was not eligible for a tax credit because Appellant had income that was too high or too low, had access to health insurance through another source which met minimum essential coverage standards, or had attested that he did not intend to file a tax return or had failed to reconcile earlier tax returns (Exhibit 5).
4. Appellant submitted a request for an appeal of the Connector's determination on November 13, 2020 (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on October 15, 2020 that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. One requirement, among others, for an advance premium tax credit concerns tax filer status. Individuals must intend to file a tax return and married couples are required to file jointly in order to be eligible for the tax credit. See 26 CFR 1.36B-2(2)(i). The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has

a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellant was found to be eligible for a Health Connector plan without an advance premium tax credit. According to the notice sent to the appellant and dated October 15, 2020, Appellant was not eligible for a tax credit because Appellant had income that was too high or too low, had access to health insurance through another source which met minimum essential coverage standards, or had attested that he did not intend to file a tax return or had failed to reconcile earlier tax returns. See Exhibit 5. Appellant attested on his application that he had no access to other insurance, and that he intended to file taxes. He also attested to a projected income of \$12,282 for 2021 which equals 71% of the Federal Poverty Level. He had had MassHealth in the past, and no coverage in 2020. See Exhibits 3a, 5, and 6 and the testimony of the appellant which I find to be credible.

Based upon the projected income that the appellant attested to on his application, the Connector correctly determined the appellant's eligibility for a Connector Health plan without an advance premium tax credit. As noted above, if an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. If the projected income is less than 100%, the individual is not eligible for a tax credit, though the applicant may purchase a Connector Health plan. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. Appellant's projected income, equaling less than 100% of the Federal Poverty Level, was too low for him to be eligible for a tax credit. See Exhibit 6.

The determination of the Connector is, therefore, affirmed.

**ORDER:** The action taken by the Connector regarding Appellants' eligibility to purchase a Connector Health plan without an advance premium tax credit is affirmed.

#### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Hearing Officer

Addendum: Appellant was advised during the hearing to contact MASSHEALTH at 1-800-841-2900 to find out if Appellant is eligible for that coverage. If Appellant's projected income for 2021 has increased, Appellant should contact Customer Service at the Connector at 1-877-623-6765 and amend his application for coverage.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2113308

**Appeal Decision:** Appeal denied. The determination of the Connector is affirmed.

**Hearing Issue:**

Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector without an advance premium tax credit.

**Hearing Date:** January 8, 2021

**Decision Date:** February 19, 2021

### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 21, 2020, the Connector determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit based upon information supplied by the appellant to the Connector.

### ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit.

### HEARING RECORD

The appellant's representative appeared at the hearing which was held by telephone on January 8, 2021. The appellant was not present. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were reviewed with the representative, marked as exhibits, and admitted in evidence with no objection from the representative. Representative testified.

The hearing record consists of the testimony of Appellant's representative and the following documents which were admitted in evidence:

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 16, 2020 addressed to Appellant for January 8, 2021 hearing

Exhibit 3: Connector Appeals Unit letter dated December 16, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit staff outreach notes

Exhibit 3b: Emails to and from the representative and the Connector Appeals Unit dated December 16, 2020; one authorizing aid pending outcome of appeal

Exhibit 4: Hearing Request Form from Appellant received by the Connector on December 12, 2020 with

notes attached

- Exhibit 5: Connector letter dated November 21, 2020 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance for 2020 coverage
- Exhibit 5a: Connector letter dated November 21, 2020 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance for 2021 coverage
- Exhibit 6: Summary and results of Appellant's application for Connector health plan for 2020 dated November 21, 2020
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan for 2021 dated November 21, 2020
- Exhibit 7: Medicaid application summary
- Exhibit 8: MassHealth benefit print-out show MassHealth coverage for the appellant starting December 1, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had ConnectorCare coverage until December 1, 2020. Appellant has had a serious illness requiring significant medical treatments since 2016. Appellant has been unable to work since 2018 because of her illness. Though Appellant is over 65 years old, she is not eligible for Medicare (Testimony of Representative, Exhibit 4).
2. When Appellant applied for health insurance through the Connector on November 21, 2020 for 2021, the appellant attested to having no income or income equaling 0% of the Federal Poverty Level. Appellant also attested to being a tax filer and having no access to any other health insurance coverage (Testimony of Appellant, Exhibits 6, 6a).
3. The Connector notified Appellant in two letters dated November 21, 2020, one for the rest of 2020 and one for 2021, that based upon the information Appellant had provided on the application, the Appellant was eligible for a Connector Health plan coverage without an advance premium tax credit. Appellant was not eligible for a tax credit because Appellant had income that was too high or too low, had access to health insurance through another source which met minimum essential coverage standards, or had attested that she did not intend to file a tax return or had failed to reconcile earlier tax returns (Exhibits 5, 5a).
4. Appellant did not receive the notices from the Connector dated November 21, 2020 until November 30th. By the time Appellant received the notices, the Connector had already terminated Appellant's ConnectorCare coverage (Testimony of Representative, Exhibit 4).
5. Appellant was given MassHealth coverage as of December 1, 2020, though the appellant was unaware of this. Appellant thought she had no coverage as of December 1, 2020, or that she would have to start paying a very high premium to retain coverage (Exhibits 4, 8).
6. Appellant submitted a request for an appeal of the Connector's determination on December 12, 2020 (Exhibit 4).

### **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on November 21, 2020 that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit. See Exhibits 5 and 5a.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. One requirement, among others, for an advance premium tax credit concerns tax filer status. Individuals must intend to file a tax return and married couples are required to file jointly in order to be eligible for the tax credit. See 26 CFR 1.36B-2(2)(i). The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to less than 100% or more than 400% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan. but without an advance premium tax credit.

In this matter, the appellant was found to be eligible for a Health Connector plan without an advance premium tax credit. According to the notice sent to the appellant and dated November 21, 2020, Appellant was not eligible for a tax credit because Appellant had income that was too high or too low, had access to health insurance through another source which met minimum essential coverage standards, or had attested that she did not intend to file a tax return or had failed to reconcile earlier tax returns. \*\* See Exhibit 5. Appellant attested on her application that she had no access to other insurance, and that she intended to file taxes. She also attested to a projected income of zero for 2020 and 2021 which equals zero% of the Federal Poverty Level. Appellant had been unable to work since 2018 because of a serious illness. See Exhibits 4, 5, and 6 and the testimony of the representative which I find to be credible.

Based upon the projected income that the appellant attested to on her application for 2021 coverage, the Connector correctly determined the appellant's eligibility for a Connector Health plan without an advance premium tax credit. As noted above, if an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. If the projected income is less than 100%, the individual is not eligible for a tax credit, though the applicant may purchase a Connector Health plan. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. Appellant's projected income, equaling less than 100% of the Federal Poverty Level, was too low for her to be eligible for a tax credit. See Exhibits 6,6a, and the testimony of the appellant's representative which I find to be credible.

In addition, Appellant became eligible for MassHealth as of December 1, 2020, immediately after Appellant lost her ConnectorCare coverage. There was no break in coverage for her. See Exhibit 8 and 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit.

The Connector's determination is affirmed.



\*\*I note that there is an issue with the notice sent to the appellant. While in one section, the reasons for the determination are as listed above, later on in the notice, the same reasons are listed except for the reason concerning income. Instead of indicating that the appellant's income may have been too high or too low, it only refers to income being too high. This is an inconsistency that could confuse Connector customers.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan without an advance premium tax credit is affirmed.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13349

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Income amount used to determine eligibility for subsidized Health Connector plans.

**Hearing Date:** February 16, 2021

**Decision Date:** February 22, 2021

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies effective December 1, 2020.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's eligibility based on the income information provided by the Appellant on November 21, 2020.

### **HEARING RECORD**

The Appellant and their Representative appeared at the hearing, which was held by telephone on February 16, 2021. Procedures for the Hearing were explained. The hearing record consists of the Representative's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 28, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes and E-Mail.
- Exhibit 4: Health Connector Customer Service Oracle Printout.
- Exhibit 5: Health Connector's Eligibility Approval Notice dated November 21, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated November 21, 2020.
- Exhibit 7: The Appellant's Online Appeal Request dated December 15, 2020.
- Exhibit 8: 2021 Eligibility Results with an Application Summary dated January 7, 2021.

Exhibit 9: A Medicaid Eligibility Printout.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Prior to December 1, 2020 the Appellant was enrolled in ConnectorCare (Exhibits 3, 7 and Representative Testimony).
2. The Appellant is eighty- three years old. The Appellant is not a United States citizen. The Appellant has been a Legal Permanent Resident (LPR) since September 29, 2015 (Exhibits 6, 7, 9).
3. The Appellant is not eligible for Social Security or Medicare (Exhibit 9 and Representative Testimony).
4. The Appellant updated their Application on November 21, 2020 and reported having income of \$617 per month. Health Connector determined this income to be equal to 58.03% of the federal poverty level (Exhibit 6).
5. On November 21, 2020, the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies because the Appellant's projected income was less than 100% of the federal poverty level. The Notice issued on November 21, 2020 informed the Appellant that to be eligible for coverage effective December 1, 2020 the Appellant must choose a plan and pay the full premium by November 23, 2020 (Exhibit 5).
6. The Appellant filed an appeal on December 15, 2020 (Exhibit 7).
7. The Appellant's Representative testified that they telephoned Health Connector Customer Service on November 23, 2020 after discovering that their Parent's ConnectorCare premium had not been withdrawn from their account. The Representative was informed that the Appellant was no longer eligible for ConnectorCare, but the Customer Service Representative was unsure why. Customer Service asked if the Appellant had filed their taxes and reconciled past tax credits and the Appellant Representative reported that they had done so. The Representative said that they paid the full premium amount of \$890.10 to continue coverage but the Appellant's insurance was cancelled. The Representative said that they kept calling and was finally informed on January 7, 2021 that because their mother was a LPR for more than five years as of September 30, 2020, the eligibility rules changed. The Representative explained that the notice issued by the Health Connector on November 21, 2020 was not delivered in the mail for almost one week, which was too late to maintain eligibility for the month of December. The Representative said that they found out by checking their account balance that something was wrong and despite calling on December 23, 2020 the Appellant's insurance was cancelled. The Representative also explained that they thought that when the Appellant was determined eligible for ConnectorCare for 2020 at the end of 2019 it meant that they were eligible for the entire year. The Representative said that they recently received the Tax Form 1095-A for Filing 2020 taxes and it was noted that the Appellant was uninsured for the month of December 2020 (Representative Testimony).

8. The Appellant's Representative requested that the Health Connector issue a refund for the amount of money paid for the Appellant's December 2020 premium. The Appellant is currently receiving MassHealth (Representative Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was determined eligible for ConnectorCare for the period beginning January 1, 2020. At the time of the eligibility determination at the end of tax year 2019, the Appellant, a non-citizen, was a Legal Permanent Resident who had been present in the United States for less than five years. In accordance with 45 CFR 155.305 § (f)(2) the Appellant was ineligible for Medicaid based on their immigration status. When the Appellant attempted to update their Application for tax year 2021 on November 21, 2020 it was determined that the Appellant's immigration status had changed. The Appellant's date of entry was September 29, 2015. As of September 30, 2020, the Appellant has been a Legal Permanent Resident for more than five years and therefore is no longer ineligible for Medicaid based on their immigration status. 956 CMR 12.07(1).

ConnectorCare is a Massachusetts based program that provides subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, to be eligible for ConnectorCare an individual must be a resident of Massachusetts with a modified adjusted gross income of less than 300% of the federal poverty level. In addition, the individual must be eligible for the federal Advance Premium Tax Credit pursuant to 45 CFR § 155.305(f).

In order to be eligible for the Advance Premium Tax Credit, a tax filer must have expected household income greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. 45 CFR § 155.305(f)(1)(i). The Appellant's projected income for 2021 was reported to be 58.03% of the federal poverty level on November 21, 2020. The Appellant updated their Application on January 7, 2021 and reported income equal to 14.20% of the federal poverty level. Since the Appellant's projected income for 2020 and 2021 is less than 100% of the federal poverty level, the Appellant is not eligible for Advance Premium Tax Credit. Since the Appellant is not eligible for Advance Premium Tax Credit, they are also not eligible for ConnectorCare.

The Appellant's Representative was understandably frustrated by the lack of notice regarding the Appellant's ineligibility for ConnectorCare. When Health Connector reviews eligibility and determines an Enrollee is no longer eligible, the Enrollee should be sent a notice of termination at least 35 days before the termination occurs. 956 CMR 12.07(4). The Appellant was notified on November 21, 2020 that they were no longer eligible for ConnectorCare and that to continue having health insurance coverage the Appellant must choose a Health Connector Plan and pay the full premium by November 23, 2020. The notice was naturally not received in the mail in time to do this. Because the Appellant's Representative checks their account to be sure the Appellant's premium payment is deducted each month, the Appellant's Representative discovered on November 23, 2020 that the Appellant's ConnectorCare had been cancelled. The Appellant's Representative telephoned Customer Service to attempt to fix any issue with the Appellant's coverage. Customer Service was unable to determine why the Appellant's ConnectorCare had been terminated and raised the possibility that it may have something to do with filing taxes. The Appellant's Representative knew this was not the case but nevertheless agreed to pay the full premium of \$890.10 to avoid any interruption in coverage. For some reason, the Appellant's coverage was not continued.

The Appellant's Representative was informed of the effect of the Appellant's change in immigration status on January 7, 2021. The Representative is not seeking retroactive coverage for the Appellant and is requesting a refund of the money paid to the Health Connector for the coverage that was terminated. The Customer Service printout (See Exhibit 4) shows refunds pending. As explained at the Hearing, this is a billing issue that is not appealable. 956 CMR 12.12.

**ORDER**

The Health Connector correctly determined the Appellant's eligibility for ConnectorCare. This Appeal is Denied.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address, and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant may contact Health Connector Customer Service at 1-877-623-6765 to check the status of their refunds.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-13394

**Appeal Decision:** Appeal Denied.

**Hearing Issues:** Eligibility for ConnectorCare based on access to MassHealth health plan.

**Hearing Date:** February 16, 2021

**Decision Date:** February 22, 2021

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 7, 2020, the Appellant was determined eligible for Health Connector plans without subsidies because the Appellant is eligible for a MassHealth benefit.

### ISSUE

The issue addressed is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies based on the Appellant's eligibility for a MassHealth benefit.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 16, 2021. The Appellant appointed a family member to act as their Authorized Representative. The procedures for the Hearing were explained to the parties. The hearing record consists of the Representative's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 28, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: MMIS printouts.
- Exhibit 5: Health Connector Final Eligibility Renewal Notice dated October 7, 2020.
- Exhibit 6: 2021 Eligibility Results with an Application Summary dated October 6, 2020.

Exhibit 7: The Appellants' Online Hearing Request dated December 18, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was enrolled in ConnectorCare in tax year 2020 (Exhibits 3, 7 and Representative Testimony).
2. In conjunction with the annual renewal process, on October 7, 2020, the Health Connector sent the Appellant a Final Eligibility Determination notice for 2021. The Appellant reported annual income of \$0. The Appellant was determined eligible for Health Connector Plans with no financial assistance based on the Appellant's eligibility for a MassHealth benefit. The notice instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application and contact Health Connector Customer Service for assistance (Exhibits 3, 4, 5, 6).
3. On December 18, 2020, the Appellant filed an appeal to dispute this determination (Exhibit 7).
4. On January 23, 2021, the Health Connector Appeals Unit sent the Appellant's Representative an Outreach E-mail informing them that the Appellant is eligible for MassHealth and should contact MassHealth to enroll in a health insurance plan. Contact information was provided (Exhibit 3).
5. The Appellant's Representative testified that they did not receive the Appeals Unit E-mail and was unaware that the Appellant was eligible for MassHealth (Representative Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Connector is required to redetermine eligibility for its members annually. As part of this process, Health Connector is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

Individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee

from being eligible for APTC. *See* 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.83 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

The Health Connector issued a Final Eligibility Renewal Notice to the Appellant on October 7, 2020. The Appellant reported having zero income. The Appellant was determined eligible for Health Connector Plans with no financial assistance. The Health Connector determined the Appellant is eligible for MassHealth. To be eligible for ConnectorCare, individuals must not have access minimum essential coverage through other government subsidized programs such as MassHealth 45 CFR § 155.305(f)(1)(ii). The Health Connector correctly determined on October 7, 2020 that the Appellant is not eligible for ConnectorCare because the Appellant is eligible for MassHealth.

The Appellant and their Representative were unaware that the Appellant was eligible to enroll in a health plan through MassHealth. The Representative was encouraged to call MassHealth Customer Service as soon as possible.

**ORDER**

This Appeal is Denied.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant is reminded to contact MassHealth Customer Service at 1-800-623-6765 for assistance.